

1 PHILLIP A. TALBERT  
2 United States Attorney  
3 ARIN C. HEINZ  
4 Assistant United States Attorney  
5 2500 Tulare Street, Suite 4401  
6 Fresno, CA 93721  
7 Telephone: (559) 497-4000  
8 Facsimile: (559) 497-4099

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10 Attorneys for Plaintiff  
11 United States of America

12  
13 IN THE UNITED STATES DISTRICT COURT  
14 EASTERN DISTRICT OF CALIFORNIA

15 UNITED STATES OF AMERICA,  
16 Plaintiff,  
17 v.  
18 BRIAN WHITWORTH,  
19 Defendant.

20 CASE NO. 1:22-CR-00222-ADA-BAM  
21 STIPULATION REGARDING EXCLUDABLE  
22 TIME PERIODS UNDER SPEEDY TRIAL ACT;  
23 ORDER  
24 DATE: October 11, 2023  
25 TIME: 1:00 p.m.  
26 COURT: Hon. Barbara A. McAuliffe

27  
28 **BACKGROUND**

29 This case is set for a status conference on October 11, 2023. This Court should consider the  
30 following case-specific facts in finding excludable delay appropriate in this particular case under the  
31 ends-of-justice exception, § 3161(h)(7) (Local Code T4). If continued, this Court should designate a  
32 new date for the status conference. *United States v. Lewis*, 611 F.3d 1172, 1176 (9th Cir. 2010) (noting  
any pretrial continuance must be “specifically limited in time”).

33  
34 **STIPULATION**

35 Plaintiff United States of America, by and through its counsel of record, and defendant, by and  
36 through defendant’s counsel of record, hereby stipulate as follows:

- 37 1. By previous order, this matter was set for a status conference on October 11, 2023.  
38 2. By this stipulation, defendant now moves to vacate the status conference, to schedule a  
39 change of plea on October 30, 2023, and to exclude time between October 11, 2023, and October 30,

1 2023, under 18 U.S.C. § 3161(h)(7)(A), B(iv) [Local Code T4].

2       3. The parties agree and stipulate, and request that the Court find the following:

3           a) This case is ready to be resolved pursuant to a plea. There is no need for a further  
4 status conference in this case. Counsel for defendant desires additional time to consult with his  
5 client about the plea one more time before the defendant signs the plea.

6           b) Counsel for defendant believes that failure to grant the above-requested  
7 continuance would deny him the reasonable time necessary for effective preparation, taking into  
8 account the exercise of due diligence.

9           c) The government does not object to the continuance.

10          d) Based on the above-stated findings, the ends of justice served by continuing the  
11 case as requested outweigh the interest of the public and the defendant in a trial within the  
12 original date prescribed by the Speedy Trial Act.

13          e) For the purpose of computing time under the Speedy Trial Act, 18 U.S.C. § 3161,  
14 et seq., within which trial must commence, the time period of October 11, 2023 to October 30,  
15 2023, inclusive, is deemed excludable pursuant to 18 U.S.C. § 3161(h)(7)(A), B(iv) [Local Code  
16 T4] because it results from a continuance granted by the Court at defendant's request on the basis  
17 of the Court's finding that the ends of justice served by taking such action outweigh the best  
18 interest of the public and the defendant in a speedy trial.

19       4. Nothing in this stipulation and order shall preclude a finding that other provisions of the  
20 Speedy Trial Act dictate that additional time periods are excludable from the period within which a trial  
21 must commence.

22       IT IS SO STIPULATED.

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24       Dated: October 4, 2023

PHILLIP A. TALBERT  
United States Attorney

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27       /s/ ARIN C. HEINZ  
28       ARIN C. HEINZ  
            Assistant United States Attorney

1 Dated: October 4, 2023

/s/ ROBERT LAMANUZZI  
ROBERT LAMANUZZI  
Counsel for Defendant  
BRIAN WHITWORTH

4 **ORDER**

5 IT IS SO ORDERED that the status conference set for October 11, 2023, is vacated. A change of  
6 plea hearing is set for **October 30, 2023, at 8:30 a.m. before District Judge Ana de Alba.** Time is  
7 excluded pursuant to 18 U.S.C. § 3161(h)(7)(A), B(iv).

8 IT IS SO ORDERED.

9 Dated: October 4, 2023

/s/ Barbara A. McAuliffe

10 UNITED STATES MAGISTRATE JUDGE